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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,413	08/23/2001	Timothy Alan Dietz	AUS9-2001-0254-US1	9848

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IBM CORP. (AVE)
C/O LAW OFFICE OF ANTHONY ENGLAND
PO BOX 5307
AUSTIN, TX 78763-5307

EXAMINER
KRISCIUNAS, LINDA MARY

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 August 2001.*

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *August 23, 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   The following is a Non-Final office action in response to the application filed on

August 23, 2001. Claims 1-21 are pending.

Claim Rejections - 35 USC § 112

2.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

3.   Claims 8-21 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. The preamble of claims 8 and 15 indicate comparing

suppliers, but the claim limitations do not address suppliers. Claims 9-14 and 16-21

depend from claims 8 and 15 respectively and subsequently have the same error.

Correction is required.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Majoor et al (US 2002/0029154).

As per claims 1, 7-8, 14-15 and 21, Majoor teaches sending survey questions for

receipt and execution by the supplier computer systems (See Figure 2 and paragraphs

14-16 where the server (104) has a rule based system (100) that sends questions (600)

and receives answers (200)); sending instructions for receipt and execution by the

supplier computer systems, the instructions being for causing the supplier computer

systems to return supplier survey answers to a server, wherein the answers are defined

in responding documents (See Figure 2 where the server is sending questions to the

client computer and receiving answers, which means the server would inherently have

requested, via instructions, the answers via a reply); parsing the data elements from the

responding documents and evaluating the data elements (paragraph 16 where the

answers are reviewed and determined if they are fully responsive (600).). Majoor does

not explicitly state sending programming instructions and answers in a format as data

elements. Official notice is taken that it is old and well known that computers that send

surveys request a response back via computer programmed instructions and format the

answers accordingly to provide means for easily gathering the information from the

survey such that the information is correctly routed to the proper channel and so that the

answers are more user-friendly as they are easier to find and read.

As per claims 2, 9 and 16, Majoor teaches the format for the responding

documents has answers identifiable as strings of text surrounded by text markups,

wherein the text markups include tags describing the data elements (paragraph 29

teaches a web interface and paragraph 33 teaches the use of a database for containing

the information and paragraph 31 teaches the use of wireless networks, LAN and PSTN

networks, where the use of an internet or intranet that run application programs which

inherently tag data types so that data can be stored and sorted in a database. See also

paragraph 15 which teaches the system uses any well-known programming language.

Where well-known programming languages, such as Java, tag text strings of

information.).

As per claims 3, 10 and 17, Majoor teaches the questions and their

corresponding answers are organized in categories according to subject matter

(paragraphs 25-26 where the questions are tailored according to profile or demographic

information which is equivalent to categories as it performs an identical function in

substantially the same manner with substantially the same results.).

As per claims 4, 11 and 18, Majoor teaches the categories include development

process, quality, enterprise, platform, operating system and environment (paragraph 2

teaches the use of the system in the computer repair and computer system

configuration fields, whereby the use of categories of operating system, quality etc

would be expected.).

As per claims 5, 12 and 19, Majoor teaches comparing the data elements to

corresponding evaluator requirements (paragraph 16 where the answers are reviewed

and determined if they are fully responsive (600) which implies that there are

requirements for the answer to be considered responsive.).

As per claims 6, 13 and 20, Majoor does not explicitly teach receiving survey

inputs from an evaluator, wherein the evaluator inputs define the evaluator

requirements. Official notice is taken that it is old and well known for a survey to be

evaluated for purposes of updating and editing. Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to provide means for updating the survey questions to provide means for keeping the questions current and appropriate for the person answering the questions.

Conclusion

6.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following art also teaches about survey systems: Pulford (US 6,952,679), Thomas et al (US 6,301,574). Cloninger et al (US 6,865,581), Finch et al (US 6,751,650), Plantec et al (US 6,826,540), Gupta (US 2002/0184265), Brookler et al (US 2002/0007303), Callender et al (US 2002/0119433), Kelly (US 2003/0088452), Nelson (US 2002/0120491), and Peters et al (US 5,893,098).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Krisciunas whose telephone number is 571-272-6931. The examiner can normally be reached on Monday through Friday, 6:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LMK

LMK

August 3, 2006

Romain Jeanty

Primary Examiner

Art Unit 3623